

# **Exhibit 19 Supplement Nottingham Deposition**

James H. Nottingham (Deposition 1)

Pages: 16, 17, 21, 22, 38, 39, 40, 41, 43, 44, 45, 46,  
48, 49, 50, 51, 53, 54, 61, 62, 65, 66, 67, 68, 69, 72, 73,  
97, 98, 99, 100, 114, 115, 116, 117, 118, 119, 120, 121,  
122, 123, 127, 128

Dated: May 5, 2021

James Nottingham

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:	NO. 2:19-cv-05750-JMG
JR., as Administrator of	:	
the ESTATE OF CHARLES	:	
JOSEPH FREITAG, SR.,	:	
Plaintiff	:	
	:	
vs.	:	
	:	
BUCKS COUNTY; PRIMECARE	:	CIVIL ACTION - LAW
MEDICAL, INC.; STEPHAN	:	
BRAUTIGAM, PMHNP;	:	
JESSICA MAHONEY, PSY.D.;	:	
AVIA JAMES, LPC;	:	
CHRISTINA PENGE, LPC;	:	
CORRECTIONAL OFFICER	:	
MOODY; CORRECTIONAL	:	
OFFICER MURPHY; and	:	JUDGE JOHN M. GALLAGHER
CORRECTIONAL OFFICER	:	
YOUNG,	:	
Defendants	:	

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ZOOM DEPOSITION OF JAMES H. NOTTINGHAM

DATE AND TIME: Wednesday, May 5, 2021  
at 9:35 a.m.

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KAPLAN LEAMAN & WOLFE  
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230 SOUTH BROAD STREET, SUITE 1303  
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1 ever terminated from a job?

2 A. Never asked, never terminated.

3 Q. Were any of your positions between 1982  
4 and 2008, any of your employment positions that is, in  
5 the law enforcement field?

6 A. No, sir.

7 Q. What brought you into Corrections?

8 A. Actually, I have a sister that's a  
9 police officer, and she -- she kinda inspired me about  
10 getting into the law enforcement field.

11 Q. Where is she a police officer?

12 A. Philadelphia.

13 Q. Can you walk me through the various ranks  
14 and procedures -- or ranks and responsibilities that  
15 you've had at Bucks County since 2008?

16 A. 2008 I started as an officer. I was an  
17 officer for approximately six years. I became a  
18 sergeant. I was a sergeant for approximately four  
19 years, and then I became a training lieutenant. I was  
20 promoted to training lieutenant. From training  
21 lieutenant, I just made captain in the last year.

22 Q. So you would have been the training  
23 lieutenant from 2018 to 2020 or 2021?

24 A. So I was transitioning actually in  
25 August of 2018. I was just getting promoted to become

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1 the training lieutenant. I assumed the position in  
2 October, but I was going through the process in August.

3 Q. And then when did you receive the  
4 promotion to captain?

5 A. August of 2- -- 2020, August.

6 Q. So, obviously, you're here to testify  
7 about training and supervision that took place in 2018.  
8 It sounds like you're in a different position now, that  
9 your -- your current responsibilities don't cover the  
10 same responsibilities you had back then. Is that  
11 correct?

12 A. As a training lieutenant, absolutely  
13 correct, yes.

14 Q. So then let's do this. I want to ask you  
15 about your responsibilities in both positions. Let --  
16 let's start with the training lieutenant. Can you just  
17 give me a description of what your day-to-day  
18 responsibilities were?

19 A. So as a training lieutenant, my  
20 responsibilities were in-service training for staff and  
21 academy training for new hires, to revitalize any kind  
22 of training, keep the standards up to par and, when  
23 needed at the jail, to come over and -- and act as a  
24 lieutenant.

25 Q. When you say act as a lieutenant, what

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1     Kratz -- then Captain Kratz?

2                   A.     Absolutely not. He was our direct  
3     immediate supervisor in training.

4                   Q.     Who reported to you?

5                   A.     We -- just my partner and I. We didn't  
6     have anybody under us.

7                   Q.     Okay, got it. And really what I'm asking  
8     there is whether there was any direct reports, anyone  
9     specifically charged with -- with working under you and  
10    conducting a training. It sounds like the answer is no.  
11    Is that correct?

12                  A.     Not -- not -- not really. So there was  
13    some -- there was some expert -- we have adjunct  
14    instructors come in. It might be a sergeant in a  
15    particular field, his expertise of training. He would  
16    come in and would be directly under us.

17                  Q.     And so you reported as the Training  
18    Lieutenant to Captain Kratz, is that -- as -- as we've  
19    described. Did you have any day-to-day interactions with  
20    the highest ranking official at that time, who would have  
21    been the director; right?

22                  A.     Mr. Pirolli.

23                  Q.     Yeah, got it. Yes. Did you have any  
24    day-to-day interaction with Director Pirolli?

25                  A.     Occasionally.

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1           Q.     Really, my question is aimed at this,  
2     sir. I take it -- we've established before that -- that  
3     you speak for Bucks County on matters of training back in  
4     2018, and I assume that Director Pirolli would have  
5     delegated to you or did delegate to you the  
6     responsibility to supervise training and supervision at  
7     that time. Is that correct?

8           A.     Through Captain Kratz, yes.

9           Q.     And if there was ever any question about  
10    training or supervision that was directed to Director  
11    Pirolli, then you could assume or expect that Director  
12    Pirolli would have directed that question to you. Is  
13    that correct?

14          A.     Yes.

15          Q.     In your position as the Director of  
16    Training, did you have any interaction with PrimeCare,  
17    the medical or mental health provider?

18          A.     Can you explain? What do you mean  
19    direct?

20          Q.     Yeah. I guess -- well, my question is  
21    this -- that's a fair point -- did you ever coordinate  
22    trainings with anyone from the medical or mental health  
23    staff?

24          A.     We did one time, yes.

25          Q.     What was the nature of that training?

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1 testimony on that topic. Is that correct?

2 A. I am.

3 Q. First, just some introductory questions  
4 on that issue, sir. Would you agree that from Bucks  
5 County's perspective, the most important responsibility  
6 of correctional staff is to ensure the health and safety  
7 of people incarcerated in the facility?

8 A. Absolutely, and I would add cleanliness,  
9 also.

10 Q. That's part of health and safety; right?

11 A. Correct.

12 Q. Would you agree, sir, that also Bucks  
13 County is aware that risks of suicide or self-harm is  
14 always a concern when you're dealing with an incarcerated  
15 population?

16 A. I would agree.

17 Q. By definition, people who are in the  
18 criminal justice system may be there for mental health  
19 reasons, drug abuse issues and so on. Agreed?

20 A. Agree.

21 Q. And I take it Bucks County is aware that  
22 those issues that are present in the criminal justice  
23 system are closely associated with risks of suicide or  
24 self-harm?

25 A. I agree.



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1                   Q.     Would you agree on behalf of Bucks County  
2     that correctional staff have a responsibility to prevent  
3     people from harming themselves?

4                   A.     I agree.

5                   Q.     Now, my understanding is that mental  
6     health staff in the facility are the ultimate  
7     decision-makers on what level of precautions are  
8     necessary. Is that your understanding, as well?

9                   A.     That is -- that is correct.

10                  Q.     Now, my understanding is also that mental  
11     health staff are, obviously, usually stationed within the  
12     medical or mental health unit. Is that correct?

13                   MR. KOLANSKY: Within the medical or  
14     mental health what? I didn't hear you.

15                   MR. FEINBERG: Unit in the facility.

16                   MR. KOLANSKY: Okay.

17                   THE WITNESS: They're in the facility,  
18     yes.

19     BY MR. FEINBERG:

20                  Q.     Well, they're -- the correctional staff  
21     are the ones who are on the -- in the housing modules at  
22     all times. Is that correct?

23                  A.     At all times we have staff on the  
24     modules. That's correct.

25                  Q.     And it's those officers who work on the

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1 modules -- it's their responsibility to carry out the  
2 precautions that are directed by mental health staff. Is  
3 that correct?

4 A. And I would add our supervisors, also,  
5 to visit the modules, tour them, yes.

6 Q. Thank you. And I take it the prison  
7 administration puts procedures in place to make sure that  
8 all happens. Is that correct?

9 A. That is correct.

10 Q. And I take it you expect that  
11 correctional officers will understand those principles.  
12 Is that correct?

13 A. That is correct.

14 Q. And you would expect that correctional  
15 officers would follow all directions on how to conduct  
16 their watches. Is that correct?

17 A. That is correct.

18 Q. And any requirements to correctional  
19 officers are not suggestions or guidelines that they  
20 should aim to do, they're -- they're mandatory; correct?

21 A. They're directives, yes.

22 Q. And I take it that Bucks County knows  
23 that there's a need to ensure that this is done. Is that  
24 correct?

25 A. That is correct. I agree.

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1                   Q.     If watches are not followed and complied  
2     with, there's a risk of someone harming him or herself.  
3     Is that correct?

4                   A.     That is correct.

5                   Q.     And I take it that was obvious to -- to  
6     you and everyone else in Bucks County. Is that correct?

7                   A.     That's correct.

8                   MR. KOLANSKY: Well, object to the form,  
9     but you can answer.

10                  BY MR. FEINBERG:

11                  Q.     Sure. But, yeah, speaking on behalf --  
12     and speaking on behalf of Bucks County, sir, it was  
13     obvious to Bucks County that there was a need to comply  
14     with these procedures. Is that correct?

15                  A.     That's why we do training, yes, that's  
16     correct.

17                  Q.     Okay, thank you. Sir, my understanding  
18     is that there are different levels of watch that applied  
19     in 2018. Is that correct, sir?

20                  A.     There are different levels of watch,  
21     yes.

22                  Q.     Could you describe for me -- I mean, I've  
23     seen the policies, but to make sure we're -- we're on the  
24     same page, could you describe for me your recollection of  
25     the different levels of watches and what those meant for

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1 officers' responsibilities back in 2018?

2 MR. KOLANSKY: And are you asking him to  
3 differentiate -- excuse me -- are you asking him to  
4 differentiate between the jail levels versus the medical  
5 levels or just the jail levels to any extent?

6 MR. FEINBERG: I'm not even sure I  
7 understand that distinction, so --

8 MR. KOLANSKY: Well, okay, I'm just  
9 asking to be precise then.

10 BY MR. FEINBERG:

11 Q. Yeah, Captain, do you understand my  
12 question?

13 A. Well, I was going to ask you a question.  
14 I was going to ask you, do you want me to go through  
15 each one, name each level?

16 Q. Sure. Yeah, tell me -- let's start with  
17 that. Tell me what each level is or just identify each  
18 level, and then I'll come back and ask you some  
19 follow-ups.

20 A. So I'll identify each level. So we have  
21 a constant watch. We have a contraband watch. We have  
22 a Level 1 watch. We have a Level 2 watch. We have a  
23 Level 3 watch. And we also have a hospital watch, which  
24 will be at a hospital.

25 Q. Each of those different watches has --

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1 places different obligations on officers. Is that  
2 correct?

3 A. That is correct and supervisors.

4 Q. Thank you. And I'll -- I'll try to use  
5 that reference in each of my questions. And can I --  
6 well, am I understanding correctly that the main  
7 difference between each of these levels, as far as  
8 correctional officers and supervisors are concerned, is  
9 the frequency at which watches take place?

10 A. Yes and no.

11 Q. Tell me -- tell me why no.

12 A. So no, because some of these watches  
13 there's an officer actually being the monitor, not an  
14 inmate.

15 Q. Okay, understood. So the distinction is  
16 between officers versus inmates. Is that correct?

17 A. Correct.

18 Q. Bottom line, though, from Bucks County's  
19 perspective, whenever obligations are placed on officers  
20 under each of these different watch levels, it's a  
21 mandatory directive. Is that correct?

22 A. Yes.

23 Q. Let's focus specifically on Level 3  
24 watch, which was the watch that -- that applied to Mr.  
25 Freitag in August of 2018. In fact, before I do that,

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1 let me -- no, I'm sorry, withdraw that. I'll show you  
2 what's been previously marked as Exhibit P-6, which is  
3 the Standard Operating Procedure regarding Watch and  
4 Observation Officer.

5 (Exhibit shown.)

6 Do you have that in front of you, sir?

7 A. I see it, yes.

8 Q. I'm going to move forward to the second  
9 page, at the bottom of the page there's some highlighted  
10 text referring to Level 3. Let me ask you, just to make  
11 things easier, can you take a moment to read the text to  
12 yourself on Level 3? Let me know when you're finished,  
13 and I'll ask you some follow-ups.

14 A. (Witness reviewed document.)

15 Okay, I'm done.

16 Q. Obviously -- well, this is self-evident  
17 from the policy, sir, but can we agree that there are two  
18 different types of obligations that are put on officer --  
19 well, that are imposed as a result of Level 3 watch.  
20 One, an obligation on an officer, and two, an obligation  
21 on an Inmate Monitor. Is that correct?

22 A. That is correct.

23 Q. The obligation on the officer is to do at  
24 least one check on the person's cell every 30 minutes.  
25 Is that correct?

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1           A.     I would say observe the inmate. The  
2 inmate may not particularly be in the cell.

3           Q.     Okay. In other words -- and -- and  
4 that's a good clarification. So the officer has an  
5 obligations to -- an obligation to lay eyes on that  
6 particular person at least once every 30 minutes. Is  
7 that correct?

8           A.     I would say yes.

9           Q.     The Inmate Monitor has an obligation to  
10 place eyes on that person once every 15 minutes. Is that  
11 correct?

12          A.     Yes.

13          Q.     So from the prison's perspective, the  
14 county's perspective, when someone is on Level 3 watch,  
15 there's an expectation that -- that there will be on six  
16 occasions for every hour someone laying their eyes on  
17 that person. Is that correct?

18          A.     According to the math, yes.

19          Q.     And I take it that -- I mean, that's --  
20 that's not a complicated math equation; right? This is  
21 -- that's -- that's the county's purpose in implementing  
22 this policy. Is that correct?

23          A.     According to the math, yes, that's the  
24 -- that's the policy.

25          Q.     And I take it -- I assume you -- you were

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1 not involved in -- in development of this policy. Is  
2 that correct?

3 A. That is correct.

4 Q. Okay, but -- and we'll get into this in a  
5 moment -- your responsibilities as the Training  
6 Lieutenant include making sure that officers are aware of  
7 what the policy requires. Is that correct?

8 A. And -- and enforcing it.

9 Q. Yeah, okay. And when someone is placed  
10 on this level of watch, the expectation of the county is  
11 that officers will make sure that all of these watches  
12 take place. Is that correct?

13 A. Yes.

14 Q. Let's move on to the next topic which is  
15 listed in the Notice of Deposition. It's Topic No. 2,  
16 which states that I'll be seeking testimony on Bucks  
17 County's policies, practices and procedures in and around  
18 August of 2018 regarding the responsibility of  
19 correctional officers and supervisors at the Bucks County  
20 Correctional Facility to supervise Inmate Monitors and  
21 ensure their compliance with obligations to conduct cell  
22 checks for persons placed on a Level 3 watch status.

23 You're prepared to testify on that topic,  
24 sir. Is that correct?

25 A. That is correct.



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1 supervising Inmate Monitors. Is that correct?

2 A. Yeah, that's correct, and supervisors.

3 Q. Okay. Thank you for continuing to remind  
4 me. So officers and supervisors have an obligation to  
5 ensure that Inmate Monitors do the job that is assigned  
6 to them. Is that correct?

7 A. That is correct.

8 Q. Now, the main responsibility of an Inmate  
9 Monitor is, as we discussed before, to lay eyes on the  
10 person who is the subject of the watch. Is that correct?

11 A. And I would also add, and note activity.  
12 They're supposed to note the activity, what they're  
13 doing when they're laying these eyes on them.

14 (Court Reporter interrupted.)

15 MR. FEINBERG: Note activity.

16 THE WITNESS: Note activity.

17 BY MR. FEINBERG:

18 Q. So the officer -- that obligation may --  
19 I'm sorry, let me say that again. The officer's  
20 obligation is to make sure that the Inmate Monitor is  
21 doing exactly what you just described. Is that correct?

22 A. Correct.

23 Q. If the Inmate Monitor is not doing the  
24 job that is assigned to that Inmate Monitor, then that's  
25 the officer's responsibility. Is that correct?

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1 A. To handle that situation, absolutely.

2 Q. Okay. So I'll take the document down  
3 now. To review, an officer's responsibility for a person  
4 on Level 3 watch, the officer's got two-fold  
5 responsibility. Is that -- officer and supervisors have  
6 a two-fold responsibility. Is that correct?

7 A. Explain two-fold.

8 Q. Sure. Well, first, on the one hand, the  
9 officers have a responsibility to conduct their own  
10 checks at least once every 30 minutes; correct?

11 A. Correct.

12 Q. And they have a responsibility, on the  
13 other hand, to make sure that the Inmate Monitors are  
14 conducting their checks and noting activity every 15  
15 minutes. Is that correct?

16 A. Yes, I agree.

17 Q. All right. And, once again, that's a  
18 directive, a mandatory directive to the officers and  
19 supervisors; correct?

20 A. Correct.

21 Q. Any failure to do that job is a -- is a  
22 violation of Bucks County's policy; correct?

23 A. Correct.

24 Q. And a violation of Bucks County's  
25 expectations of its officers. Is that correct?

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1 A. I agree, correct.

2 Q. Sir, in your experience, whether as a  
3 Training Lieutenant or in your supervisory experience  
4 before then, were you -- did you ever become aware of any  
5 problems with Inmate Monitors not fulfilling their  
6 responsibilities?

7 A. Yes.

8 Q. Describe that to me. What -- what type  
9 of notice did you receive?

10 A. So as an officer and a supervisor --  
11 I'll explain as an officer first. Is that okay?

12 Q. Please.

13 A. So I was a Module Officer. My  
14 responsibility, like we agree, was to check these  
15 monitor forms to note the activity. I will correct the  
16 inmates if they weren't doing it to my standards, if  
17 they were a little behind on the time or if they were  
18 not writing any information in there, if they were using  
19 the ditto marks, I would correct them.

20 Me, personally, as the Module Officer, I  
21 would give them a warning first and then a second time  
22 they would be fired, I would replace them. That was as  
23 an officer.

24 As a supervisor, I had the same kind of  
25 interactions, the same thing on my tours. If I seen

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1 anything wrong with a monitor, I would correct that.

2 Q. When you were a Module Officer, I take it  
3 Inmate Monitors would be responsible for handing in their  
4 monitoring forms to you. Is that correct?

5 A. At the end of the shift, yes.

6 Q. And it sounds like, from what you've  
7 described, where if you look for ditto marks or whether  
8 the forms were being appropriately completed, that you  
9 would review every single form that got handed to you.  
10 Is that correct?

11 A. Not only at the end, but during the  
12 shift, also, yes.

13 Q. So at that point -- strike that. Then --  
14 so your practice was -- was to engage in, it sounds like,  
15 fairly careful supervision of the Inmate Monitors. Is  
16 that right?

17 A. I would say that's correct, yes.

18 Q. And that's something that's required by  
19 Bucks County directives, as we've just reviewed. Is that  
20 correct?

21 A. Correct.

22 Q. The problems that you've identified, did  
23 they come up frequently?

24 A. Not frequently, not frequently, but from  
25 time to time you -- we would have to -- I would have had

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1 understand. Anybody in this field understands why we  
2 use the Inmate Monitors, why we use inmates.

3 (Court Reporter interrupted.)

4 Inmates as Inmate Monitors.

5 Q. Articulate that for me then, sir. Why is  
6 it that -- well, tell me, when you -- when you respond to  
7 your family or civilians who ask that -- that question,  
8 how do you say it?

9 A. So I tell them, you know, we have a lot  
10 of sick people in the world, you know, addicted to drugs  
11 and for whatever reason they come in, they've given up  
12 hope, you realize there's a lot -- a lot of the  
13 population of the jail right now and back then like  
14 that.

15 We don't have enough staff members. We  
16 would have -- have to have an officer at every -- every  
17 inmate on watch. It's impossible. So nobody in this  
18 field -- anyone not in this field doesn't understand  
19 that. People in this field, correctional officers,  
20 correctional supervisors, administration, they  
21 understand.

22 Q. What you're describing sounds like a  
23 resources issue. Is that correct, sir?

24 A. It can be.

25 Q. It's -- I think the way you've described

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1 is it would be impossible to protect the safety of every  
2 prisoner if you were relying on officers to do it  
3 exclusively. Is that correct?

4 A. It -- it's impossible.

5 Q. Okay. So given that, given that you're  
6 -- that there's a necessity to ask inmates to assist with  
7 the supervision and protection of other inmates, I take  
8 it that, as you've described, you expect that officers  
9 will handle their supervision responsibilities carefully.  
10 Is that correct?

11 A. That's the critical part. Yes, I agree.

12 Q. Let's go to Item 3 in the Notice of  
13 Deposition, which is Bucks County's policies, practices  
14 and procedures in and around August of 2018 regarding the  
15 training and supervision of correctional officers on the  
16 responsibilities that we've addressed so far. I take it  
17 you're prepared to testify on that, sir. Is that  
18 correct?

19 A. That's correct, yes.

20 Q. Can -- just -- before we get into it,  
21 let's talk generally about training. Can you estimate  
22 for me, how many different Standard Operating Procedures  
23 are there?

24 A. Well, I have -- I have no idea on the  
25 number. I couldn't even guess.

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1 BY MR. FEINBERG:

2 Q. Yeah, let me -- and let me -- let me  
3 revise the question. What did you do or, to your  
4 knowledge, did anybody else do?

5 A. As I previously stated, it was my duty  
6 -- and I took it seriously -- to make sure the officers  
7 were aware of the policy and procedure. I made sure  
8 that if they had any questions, that I answered the  
9 questions very well, specifically to my knowledge and my  
10 experience. I shared my experiences as a supervisor and  
11 a Module Officer.

12 Q. Did you or anyone else, to your  
13 knowledge, conduct spot checks on officers to make sure  
14 they were doing their jobs on this particular issue?

15 A. Any supervisor that's conducting a tour  
16 or an unannounced round, that's happening daily, that's  
17 happening every day of the week, every hour, so yes.

18 Q. And that's built into the expectations  
19 for supervising officers. Is that correct?

20 A. That is correct, exactly.

21 Q. So Mr. Freitag was housed on the B  
22 module. Which level of supervisor would be required to  
23 do periodic checks in that module?

24 A. So you could have a lieutenant rank or a  
25 sergeant rank.

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1           Q.     And any one of them could -- well, is  
2     there a specific requirement that a sergeant has to tour  
3     that module every three, four hours or something like  
4     that?

5           A.     It's expected that each supervisor tour  
6     as many blocks as they can.

7           Q.     Okay.

8           A.     So yes, to answer your question, yes.

9           Q.     Got it. When the officers go to each  
10    housing module -- I'm sorry -- the supervisors, when they  
11    go to a housing module, is there an expectation that they  
12    will check on the officer's computerized log records?

13          A.     Absolutely.

14          Q.     And I put in front of you as you were  
15    answering that question, sir, a document previously  
16    marked as Exhibit P-5.

17                   (Exhibit shown.)

18                   Do you see that?

19          A.     I see P-5.

20          Q.     And I take it that you've seen documents  
21    that look like this before?

22          A.     These look like log entries.

23          Q.     So these are the log entries that  
24    officers make when they're working on a housing module.  
25    Is that correct?



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1 time preceding 2018. Did you see yourself or did you  
2 become aware of any problems with the way in which  
3 officers were conducting their watches as required by  
4 county procedures?

5 A. As an officer? No.

6 Q. Well, let's talk about in -- as a -- as a  
7 -- for example, let me -- I'll phrase it so you  
8 understand the way I want to ask this question. Sir, I'm  
9 going to give you a hypothetical.

10 At some point when you were the Training  
11 Lieutenant in 2018, did anyone ever say to you, hey, you  
12 know, Lieutenant -- then Lieutenant Nottingham, we've got  
13 a problem, officers on the B modules, they're just --  
14 they're not doing the checks as frequently as they're  
15 supposed to under the watch procedures. Did anything  
16 like that ever come up?

17 A. Never.

18 Q. Did you yourself ever see evidence of any  
19 problems with the way officers were conducting their  
20 checks?

21 A. No.

22 Q. Did you ever overhear of any  
23 conversations between officers and supervisors about  
24 failure to conduct checks as required?

25 A. No. Just complaints, general

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1 complaints, that there was a lot of them.

2 (Court Reporter interrupted.)

3 Complaints of how many watches there  
4 were, never negligence.

5 MR. KOLANSKY: Guys, can I interrupt for  
6 one second? Finish the answer. I gotta interrupt for  
7 this phone call right now here.

8 MR. FEINBERG: Okay. Let's go off the  
9 record.

10 (Discussion was held off the record.)

11 (Break was taken.)

12 BY MR. FEINBERG:

13 Q. Captain Nottingham, are you ready to go  
14 back on the record?

15 A. I am.

16 Q. So we had -- we had a break for, oh,  
17 gosh, about 30, 40 minutes now. During the course of  
18 that break, did you realize that any of your previous  
19 testimony was incorrect or incomplete?

20 MR. KOLANSKY: It was -- sorry.

21 THE WITNESS: No, sir.

22 BY MR. FEINBERG:

23 Q. Great. We ended with a question and  
24 answer about whether you have seen or heard about any  
25 problems with officers conducting their checks on the

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1 housing modules, and it sounds like what you're saying is  
2 that the only thing that you've heard about are officers  
3 complaining that there's just too many checks for them to  
4 do. Sir, we lost your video there.

5 MR. KOLANSKY: There you go.

6 BY MR. FEINBERG:

7 Q. Did you hear my question?

8 A. I did. Let me -- let me be clear,  
9 though. You asked me the question as a Training  
10 Lieutenant.

11 Q. Sure.

12 A. Absolutely, yes. That's exactly my  
13 statement, yep.

14 Q. Is -- is there some other complaint that  
15 you've heard in some other capacity?

16 A. As a supervisor, I heard complaints,  
17 yes.

18 Q. Okay. Basically officers saying there's  
19 -- there's too much -- we have too much of an obligation  
20 to conduct these checks. Is that right?

21 A. Exactly, and -- and the number of how  
22 many there were.

23 Q. Have you ever observed, because of the  
24 number of checks that are required, that officers failure  
25 -- fail to comply with their responsibilities to conduct

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1     those checks?

2                   A.     As a sergeant, yes. As a Training  
3     Lieutenant, no.

4                   Q.     Remind me when you were a sergeant.

5                   A.     2015 to 2018.

6                   Q.     Got it. What kind of failures did you  
7     see in that role?

8                   A.     There was a couple cases where I had a  
9     officer, one particular time, had an inmate watching too  
10    many inmates on Level 3. We have a policy on eight, no  
11    more than eight. There was about approximately ten, if  
12    my memory serves me correctly. I --

13                  Q.     How many others have you -- I'm sorry, go  
14    ahead, I interrupted you.

15                  A.     And I -- I recommended discipline for  
16    that officer.

17                  Q.     Were there any other instances that you  
18    saw while working as a sergeant?

19                  A.     Not to my recollection that I can  
20    remember.

21                  Q.     Let me ask you the same series of  
22    questions about Inmate Monitors. Although it sounds like  
23    we may have already covered that, but I want to be more  
24    specific. In your position as a training lieutenant, did  
25    you overhear or learn about any problems in the way

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1 officers were conducting themselves in their supervision  
2 of Inmate Monitors?

3 A. No, sir.

4 Q. As a Sergeant, you've already described  
5 one issue where a -- where an officer had too many Inmate  
6 Monitors working under him. Is that correct?

7 A. It was too many inmates on Level 3 under  
8 one monitor --

9 Q. I see.

10 A. -- to be more precise.

11 Q. Okay. In terms of a responsibility to  
12 supervise Inmate Monitors, you told me that both officers  
13 and supervisors have a responsibility to do so. Is that  
14 correct?

15 A. Yes, sir.

16 Q. And I think you told me that -- you gave  
17 me an example that when you were a correctional officer  
18 working on a housing module, you took very seriously your  
19 job to look at every single Inmate Monitor form both  
20 during your shift and at the conclusion of the shift;  
21 correct?

22 A. Yes, sir.

23 Q. And you would expect the same of other  
24 correctional officers. Is that right?

25 A. Absolutely.

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1 Young testified that he doesn't recall looking at Inmate  
2 Monitor forms, only looked at them occasionally, and it  
3 says that the supervisors are the ones who are supposed  
4 to check the forms. Do you see that testimony?

5 A. I do see it, yes. I read it.

6 Q. That's inconsistent with your  
7 understanding of -- or what you've described as the  
8 directives to officers. Is that correct?

9 A. As the Training Lieutenant, that is  
10 incorrect.

11 (Court Reporter interrupted.)

12 Q. As the training lieutenant, often --

13 (Court Reporter interrupted.)

14 A. That is incorrect. I -- I agree with  
15 the attorney's statement.

16 Q. Meaning that Officer Young has it wrong.  
17 Is that correct?

18 A. I agree, yes.

19 MR. FEINBERG: Lori, off the record for  
20 one second.

21 (Discussion was held off the record.)

22 BY MR. FEINBERG:

23 Q. And in connection with this issue about  
24 the officer's responsibility to look at Inmate Monitor  
25 forms, sir -- well, I'm sorry, let me withdraw that

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1 question and ask you a different one.

2 If you learned, as the Training  
3 Lieutenant, that Officer Young was under the mistaken  
4 impression that it was the supervisor's responsibility to  
5 look at these, what would you have done?

6 A. Well, let me put it to you this way. If  
7 that would have came up in training and that question  
8 was directed to me from that officer or I asked that  
9 officer the question you asked him, I would definitely  
10 have to correct him about that. That -- that is  
11 incorrect. Not only is -- not only a supervisor, but he  
12 is also to check those forms.

13 Q. Prior to 2018, do you recall any  
14 conversations with -- whether it was Officer Young or any  
15 other officer -- where other -- where officers  
16 communicated to you that they were under that mistaken  
17 impression that it was the supervisor's responsibility to  
18 look at Inmate Monitor forms?

19 A. I never had it phrased to me that way,  
20 but like I said, as a sergeant, I did correct that one  
21 officer, and he should have been paying attention to the  
22 forms and how many he had -- the other inmate -- how  
23 many -- how many inmates that Inmate Monitor was  
24 watching. So other than that one occasion that I  
25 remember, no officer had ever presented -- presented

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1 something different in reference to Dr. Cassidy. I'll  
2 just represent to you that this meeting took place in  
3 October of 2019, so a full 14 months after Mr. Freitag's  
4 suicide in August, 2018. Do you understand that, sir?

5 A. Okay.

6 Q. And Lindsay Hayes, for reference, is a  
7 suicide prevention expert and, to my understanding, was  
8 brought in by either PrimeCare and Bucks County or both,  
9 to look at practices and procedures. Do you understand  
10 that, sir?

11 A. Yes.

12 Q. Now, what Mr. Hayes, from the context of  
13 this memorandum, did is he asked whether anyone had  
14 looked into the watch issue and checked with the Module  
15 Officers to see if the watch was put into place. Do you  
16 see that?

17 A. I do see it.

18 Q. And then the next paragraph down says  
19 investigators did not look into the issue. The focus was  
20 on the suicide incident, gathering evidence, et cetera.  
21 Did you read along with me and see that text?

22 A. I did.

23 Q. Can we agree that based on that  
24 description, at least from Mr. Bochenek's perspective, no  
25 one between August of 2018 and October of 2019 looked



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1 into the question about what happened on the block in  
2 terms of compliance with the watch procedures. Are we  
3 agreed?

4 A. According to what I read, that's what it  
5 says.

6 Q. Okay.

7 A. Not to be disrespectful to you, but  
8 isn't that a question for Mr. Bochenek?

9 Q. Well, as you heard, I'll be asking him  
10 that question shortly.

11 A. I agree. I agree.

12 Q. My -- my question for you then, sir, is  
13 do you know, in your position, why no one -- or strike  
14 that. Let me ask this since you mentioned Mr. Bochenek.  
15 Whose responsibility is it to look into that issue?

16 A. A supervisor can come down there at any  
17 point, like I said earlier, during a tour and check  
18 those watch sheets, go into OMS, which is the log  
19 entries, look up any inmate and check any alert that's  
20 in there on an inmate. So any supervisor, any officer  
21 can do that.

22 Q. I appreciate that, sir, but my -- my --  
23 and maybe I didn't articulate the question well. The  
24 question I have for you is that in your position as the  
25 training officer, is there any explanation for why you

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1     were not called upon, if you know, as -- to look into how  
2     the officers did their job in connection with this  
3     suicide incident?

4                     MR. KOLANSKY:  Objection to form.  How  
5     can he know why somebody else did not call upon him to do  
6     that investigation, especially given that that's not part  
7     of his obligation --

8                     MR. FEINBERG:  Well --

9                     MR. KOLANSKY:  -- if -- if that's not  
10    part of the obligation.

11    BY MR. FEINBERG:

12                    Q.     Sir, you can answer the question.

13                    A.     Yeah, I had no knowledge.  No one asked  
14    me, so I had no idea.  I don't know.

15                    Q.     Sure.  Is that something -- so in  
16    response to the video that I showed you, I think you told  
17    me -- and the transcript will speak for itself -- that  
18    you'd like to see another angle or you'd like to know  
19    more.  Did I understand your -- your response correctly?

20                    A.     Absolutely, to rule out other  
21    possibilities.

22                    Q.     In other words, you hypoth- -- and it was  
23    -- and this is not a critique, but you hypothesized that  
24    Officer Young could have been on the phone at that time.  
25    Is that right?

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1 A. I did, yes.

2 Q. And I think you and I both agreed that no  
3 one really knows because we only see that little spec on  
4 the video. Is that correct?

5 A. Yes.

6 Q. And my question for you then is, are you  
7 aware of anyone within the Bucks County Correctional  
8 Facility whose responsibility it is to ask those  
9 questions of Officer Young after an event like a suicide,  
10 to find out specifically what happened?

11 A. Yeah, that department's called SIU,  
12 Special Investigations Unit.

13 Q. Is that Mr. Bochenek's department?

14 A. That was formerly Mr. Bochenek's  
15 department. He retired.

16 Q. Oh, got it. So at that point, it would  
17 have been Mr. Bochenek's responsibility. Is that  
18 correct?

19 A. At that -- at that time, yes.

20 Q. Okay. Thank you. So at any point -- and  
21 let me just back out. Let's not -- let's not talk about  
22 this incident. Just in general. When there -- let me  
23 use the phrase critical incident. Do you ever use a  
24 phrase like that to describe things that happen in the  
25 prison?

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1 some time to read, sir. It's a few pages. Let's see  
2 here. Let's do this, sir, I'll highlight as we -- as we  
3 go. Could you start by reading the bottom of what's  
4 Page 105 of Mr. Young's deposition, and let me know when  
5 you finish.

6 A. (Witness reviewed document.)

7 I'm finished.

8 Q. All right. Now I'm moving to Page 106.  
9 I won't highlight. I'll just ask you to read the entire  
10 page.

11 A. (Witness reviewed document.)

12 Okay, I'm finished.

13 Q. All right. Did you -- you read Page 106.  
14 Is that correct?

15 A. 106 and 107.

16 Q. All right, thank you. Now, let's go on  
17 to 108, and you can read just this text right here  
18 (indicating).

19 A. (Witness reviewed document.)

20 I'm finished.

21 Q. Obviously, sir, from this testimony, Mr.  
22 Young had no idea whether the Inmate Monitor, Hugh  
23 Caldwell, working under his supervision, did the job that  
24 he was supposed to do. Is that correct?

25 A. I agree.

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1 Q. Did you see here -- pardon me, on  
2 Page 107, Mr. Young believed that he did his job  
3 completely appropriately.

4 A. (Witness reviewed document.)

5 Q. Did you see his testimony on that point,  
6 sir?

7 A. I do agree -- I did read it, yes.

8 Q. Do you agree with that testimony?

9 A. I disagree with his opinion of his job  
10 duty, but....

11 Q. Why do you say that?

12 A. Well, he -- that's what his answer says.

13 Q. No, no, no. Why -- why do you disagree  
14 with his opinion?

15 A. Because I think it is his  
16 responsibility.

17 Q. It's his responsibility to make sure the  
18 Inmate Monitor is looking in his cell. Is that correct?

19 A. Yes.

20 (Court Reporter interrupted.)

21 MR. FEINBERG: It's his responsibility to  
22 make sure the Inmate Monitor is looking in his cell, and  
23 the captain's response was yes.

24 BY MR. FEINBERG:

25 Q. And, Captain, do you -- so you would

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1 agree that Captain -- pardon me -- that Officer Young did  
2 not comply with his responsibilities under Bucks County's  
3 Standard Operating Procedures. Is that correct?

4 A. I agree.

5 Q. Obviously, we've -- we've reviewed from  
6 Mr. Bochenek's report that this was not -- that Officer  
7 Young's compliance with his responsibilities was not  
8 evaluated at any time between August of 2018 and October  
9 of 2019 when that meeting took place with Lindsay Hayes.  
10 Do you recall looking at that document?

11 A. I did see the document.

12 Q. Do you have any --

13 (Court Reporter interrupted.)

14 A. I did see the document that Mr. Freitag  
15 showed me -- I'm sorry, the attorney. I'm sorry.

16 Q. Sure. Do you have any understanding as  
17 to why there was no evaluation or discussion of Officer  
18 Young's performance in that regard in that time period?

19 A. I can't answer that question. I have no  
20 --

21 Q. Once again --

22 A. -- knowledge of it.

23 (Court Reporter interrupted.)

24 Q. Captain, once again, would that be Mr.  
25 Bochenek's responsibility, to your understanding?

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1 MR. KOLANSKY: Objection, outside the  
2 scope within the questions to be answered.

3 BY MR. FEINBERG:

4 Q. You can answer, sir.

5 A. To the best of my knowledge, that would  
6 fall under Mr. Bochenek's responsibility, yes.

7 Q. Thank you. As the -- if this issue came  
8 up in training, sir, and you learned that Mr. Young  
9 had -- based on his deposition testimony -- had no idea  
10 what an Inmate Monitor on his module was doing, what  
11 would you do?

12 A. If I had the same conversation that you  
13 were having with him right there, with those same  
14 responses, I would have to definitely tell the officer  
15 that he was wrong and that he -- it is his  
16 responsibility, and he should be checking those monitor  
17 forms and making sure that the inmates are doing their  
18 job properly, as well as himself. So that would have  
19 been addressed --

20 Q. If you found out --

21 (Court Reporter interrupted.)

22 A. That would have been addressed, to  
23 answer your question, Counselor.

24 Q. How would it have been addressed? I'm  
25 sorry, let me withdraw that question. If -- if you

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1 learned about this in the immediate wake of Mr. Freitag's  
2 death in August of 2018, how would it have been  
3 addressed?

4 A. So we're -- we're in the -- we're in the  
5 hypothetical again; right?

6 Q. Yeah, sure.

7 A. So if I was a -- and I was a supervisor,  
8 if I had him come into the module, tour his module at  
9 the time, and I was checking those forms, which I would  
10 have done, I would have definitely called him on the  
11 carpet about it, the officer.

12 Q. Would you have disciplined him?

13 A. I would have. I would have recommended.  
14 I would have recommended discipline.

15 Q. Okay. And in fact --

16 A. Let me finish. It would have been part  
17 of my --

18 Q. Please.

19 A. -- it would have been part of my report.

20 Q. What report are you referring to?

21 A. I had to do a Daily Report every day as  
22 a supervisor.

23 Q. And in your position as the Training  
24 Lieutenant, it sounds like, from your testimony, you  
25 would not have the authority to impose discipline on an



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1 officer. Is that correct?

2 A. That is incorrect.

3 Q. Well, yeah, then -- then let me ask. Who  
4 would have the authority to impose discipline?

5 A. I would have. Any supervisor can  
6 recommend it.

7 Q. Who makes the ultimate decision once a  
8 recommendation of discipline is made?

9 A. So the admin lieutenant, the captain,  
10 Deputy Warden, they would make the final decision.

11 Q. Okay. So let's say on August 25th of  
12 2018 you went to the B module where Officer Young was  
13 stationed, and you could tell that he had no idea what  
14 was going on with the Inmate Monitor. Your  
15 recommendation would have been to discipline him. Is  
16 that correct?

17 A. I would have spoke to the officer and  
18 said, here's what's expected, here's what you should be  
19 doing, and I would recommend --

20 Q. Okay.

21 A. -- discipline.

22 Q. If found out on August 26th of 2018 --  
23 that's a Sunday -- Monday, August 27th, two days after  
24 Mr. Freitag's death, that Officer Young had been on the  
25 module all that morning, Saturday morning, the 25th, and

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1 he had no idea what the Inmate Monitor was doing, you  
2 would have recommended discipline at that point. Is that  
3 correct?

4 A. That's correct.

5 Q. In terms of post-incident investigation,  
6 though, for disciplinary purposes, what you're describing  
7 to me is that's not your role to do. Is that correct?

8 A. That's correct.

9 Q. To your understanding, any post-incident  
10 investigation for disciplinary purposes falls on the  
11 shoulders of the Investigative Unit. Is that correct?

12 A. Yes, sir.

13 Q. Obviously, sir, what I've shown you today  
14 in terms of the gap in the officers looking in Mr.  
15 Freitag's cell and the inconsistencies between the Inmate  
16 Monitor form and what actually happened, this is the  
17 first you're seeing of all that. Is that correct?

18 A. That's correct.

19 Q. Can I assume -- strike that. You agree  
20 with me that we've seen violations of policies in  
21 multiple respects by the officers on the housing module.  
22 Is that correct?

23 A. I would say by the inmate and by the  
24 officer from what I've seen.

25 Q. And am I correct then in understanding

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1 that today is the first time you're hearing of any of  
2 that? Is that correct?

3 A. That's correct.

4 Q. Does that concern you, sir, as the former  
5 training lieutenant, that this is the first time you're  
6 hearing about it?

7 A. No, I'm not concerned about it. I'm not  
8 concerned.

9 Q. Do you think there's any need to go back  
10 and talk to Officer Young now?

11 A. Me personally, I think, yeah, I think I  
12 will.

13 Q. How about Officer Moody? He was also on  
14 the module.

15 A. I would.

16 Q. What are you gonna say to them?

17 A. I would like to ask them a few  
18 questions. I don't know what I would say. I would have  
19 to ask them questions. I don't know what I would say,  
20 though. I can't answer that right now.

21 Q. What's the first question you'll ask  
22 them?

23 MR. KOLANSKY: Objection.

24 THE WITNESS: If they remember -- if they  
25 remember the events of that day.

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1 BY MR. FEINBERG:

2 Q. What's the next question you'll ask them?

3 MR. KOLANSKY: Objection. You can  
4 answer.

5 BY MR. FEINBERG:

6 Q. You can answer, sir.

7 A. I would have to wait and see what their  
8 response was for the next question.

9 Q. Okay. It sounds like rather than doing  
10 this in a script fashion, you'd want to know what was  
11 going on on the housing module. Is that correct?

12 A. More or less, if you put it that way,  
13 yeah.

14 Q. We've agreed that all of the measures  
15 that are in place for monitoring checks by -- or let me  
16 try that again. All of the measures that are in place  
17 for cell checks by -- by officers and Inmate Monitors are  
18 intended to protect people who might be at risk of  
19 harming themselves. Is that correct?

20 A. I wouldn't call it a cell check. I  
21 would say observation, but to your point, they are.

22 Q. And when -- if officers are not living up  
23 to their responsibilities, that's putting people at risk.  
24 Is that correct?

25 A. And supervisors. Yes.

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1                   Q.     And it's obvious to the county that that  
2     risk is there. Is that correct?

3                   A.     There's always a risk of that. We're  
4     dealing with human beings.

5                   Q.     Well, it's obvious that when officers  
6     fail to do their jobs in supervising Inmate Monitors and  
7     doing their own observation, that's an obvious risk. Is  
8     that correct?

9                   A.     I would agree.

10                  MR. FEINBERG: Sir, I appreciate you  
11     hanging in for a longer than expected deposition. I  
12     don't have any further questions for you, but I defer to  
13     other counsel.

14     BY MR. KOLANSKY:

15                  Q.     Thanks. I do have a couple. Captain,  
16     before you would go back and ask those officers -- well,  
17     first of all, in going back and asking to -- or speaking  
18     with those officers, I assume that you're going back and  
19     speaking with them as captain of the guard or whatever  
20     your exact title is. Is that correct?

21                  A.     Yes, sir.

22                  Q.     And in speaking with them, I assume  
23     you're going back not to discipline them at this point,  
24     but to possibly engage in further training for them as  
25     your -- in your role as their captain. Is that correct?

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1 described in this instance?

2 A. I am in a -- I'm in a position now,  
3 whereas before I wasn't.

4 Q. And do you ensure that those -- those  
5 checks occur?

6 A. Absolutely.

7 MR. KOLANSKY: I have nothing further at  
8 this time. John?

9 MR. NINOSKY: No questions.

10 MR. KOLANSKY: Thank you. Jon?

11 BY MR. FEINBERG:

12 Q. I have, yeah, one follow-up for you, sir.  
13 Would you agree that based on the testimony that Officer  
14 Young gave, that up through August of 2018, in fact,  
15 December of 2020 when this deposition occurred, Officer  
16 Young was under the impression that he had no obligation  
17 to ensure that Inmate Monitors were conducting their  
18 checks?

19 A. And I told you I don't agree with that.

20 Q. Right, and that's -- but that appears to  
21 be his -- his understanding. Is that correct?

22 A. That's his perception.

23 Q. And does that perception suggest to you  
24 that Officer Young needed some more training or  
25 supervision?

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1 MR. KOLANSKY: Objection to form.

2 THE WITNESS: Yes, definitely.

3 BY MR. FEINBERG:

4 Q. Yes, he definitely needed more training  
5 because his perception was wrong. Is that correct?

6 MR. KOLANSKY: Well, objection to the  
7 form and to the question because it doesn't mean that he  
8 needed more training. It means that he didn't understand  
9 what he was supposed to do, I would assume.

10 BY MR. FEINBERG:

11 Q. You can answer the question, sir.

12 A. I would have definitely addressed the  
13 situation if I was there or in this building. I would  
14 address it to make sure that Officer Young and Officer  
15 Moody or any officer was aware that their responsibility  
16 is to supervise the Inmate Monitors and to peruse and  
17 check those Inmate Monitor forms.

18 MR. FEINBERG: I don't have anything  
19 further. Thank you, sir.

20 BY MR. KOLANSKY:

21 Q. I do have one more then. Captain, is  
22 there any reason to believe from the training modules  
23 that you presented over the years, that those two  
24 officers were not trained in that procedure properly?

25 A. None whatsoever.